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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,459	12/14/2001	Gregorius Maria hubertus Goyarts	GOY3	1708

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,459

Applicant(s)

GOYARTS, GREGORIUS MARIA
HUBERTUS

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mavinkurve (5,275,591) in view of Tanzer et al. (5,562,645).

Mavinkurve discloses all aspects of the claimed invention, but remains silent as to the bonding between the moisture-absorption element and the moisture-permeable top-layer material. Mavinkurve discloses a pad 100, as shown in figure 1, which is capable of being washed. The pad 100 comprises an assembly of a moisture-absorption element 34, a moisture-permeable top-layer material 32, and a moisture-impermeable bottom-layer material 36, as shown in figure 3. The moisture-absorption element 34 and the moisture-impermeable bottom-layer material 36 are joined together, as disclosed in column 6, lines 18-19. The top-layer material 32 and bottom-layer material 36 are bonded together at bonding points 10 which are present in perforations in the moisture-absorption element 34, as shown in figure 1.

Tanzer discloses a pad 10, as shown in figure 1, comprising an assembly of a moisture-absorption element 46, a moisture-permeable top-layer material 28, and a moisture-impermeable bottom-layer material 30. The top-layer material 28 is locally

bonded to the moisture-absorption element 46, as described in column 12, lines 34-37.

The local bonding, or spot coating, allows for suitable bonding between the layers without excessive use of adhesive, which may decrease the permeability of the top-layer material 28, as described in column 12, lines 39-42.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to bond the top-layer material and the moisture-absorption element of Mavinkurve by local bonding, as taught by Tanzer, to provide a strong bond without decreasing the permeability of the top-layer material.

With respect to claim 2, Mavinkurve discloses a suitable adhesive for attachment of the layers of the pad 100 as being thermoplastic material, as described in column 7, lines 53-59.

With respect to claim 3, the moisture-absorption element 34 comprises moisture-absorbent fibers, as described in column 5, lines 25-31, and a moisture-dispersing layer 31, as shown in figure 3.

With respect to claim 4, a border finish 40, 42, as shown in figure 4, is present. The top-layer material 32 and bottom-layer material 36 are bonded to one another around the periphery of the pad 100, as described in column 5, lines 55-58.

With respect to claim 5, thermoplastic material 63, 64 is applied to the bottom surface of the top-layer material 32 and the top surface of the bottom-layer material 36, as shown in figure 7. The thermoplastic material 63, 64 promotes bonding between the top-layer material 32 and bottom-layer material 36, as described in column 7, lines 19-37.

With respect to claim 7, the top surface of the bottom-layer material 36 is coated with a layer of bonding material 64, which bonds the bottom-layer material 36 and the moisture-absorption element 34 together, as described in column 6, lines 18-19.

With respect to claim 8, the bottom-layer material 36 bears against and bonds to the top-layer material 32, as described in column 5, lines 55-58.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mavinkurve (5,275,591) in view of Tanzer et al. (5,562,645), and further in view of De Carvalho et al. (5,962,106).

Mavinkurve, as modified by Tanzer, discloses all aspects of the claimed invention with the exception of the bottom-layer material being turned over onto the top surface of the top-layer material and bonded thereto.

De Carvalho discloses a pad 1, as shown in figure 1, comprising an assembly of a moisture-absorption element 2, a moisture-permeable top-layer material 7, and a moisture-impermeable bottom-layer material 5, as described in column 4, lines 5-7. The bottom-layer material 5 is folded over onto the top surface of the top-layer material 7, as shown in figure 2. Folding the bottom-layer material 5 over onto the top surface provides improved leak prevention, as described in column 3, lines 25-27.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to fold the bottom-layer material of Mavinkurve over onto the top surface of the top-layer material, as taught by De Carvalho, to provide improved leak prevention.

Response to Arguments

Applicant's arguments filed 24 September 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that Mavinkurve fails to disclose a washable article, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Mavinkurve discloses an article that is fully capable of being washed. The materials disclosed by Mavinkurve for the construction of the article are all able to be washed, even if they are not disclosed as such. Nowhere does Mavinkurve disclose the article is intended to be discarded after a limited period of use.

In response to applicant's argument that Mavinkurve fails to disclose bonding between the moisture-permeable top-layer material and the moisture-impermeable bottom-layer via perforations in the absorbent material, it is noted that Mavikurve shows in figure 3 bonding between the moisture-permeable top-layer material and the moisture-impermeable bottom-layer between sections of the absorbent material that are separated by perforations. The moisture-permeable top-layer material and the moisture-impermeable bottom-layer are bonded by heat-sealing, as disclosed in column

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7, lines 9-12. The absorbent material is located in both the central portion 11 of the absorbent article and the wings 20, 22, and these portions of absorbent material are separated by perforations, i.e. by a pattern made as if by piercing.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Tanzer teaches a method of bonding a liquid-pervious top-layer to an absorbent core such that excessive adhesive does not decrease the permeability of the top-layer.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CWA
cla

12 Noveber 2003



WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700